

47 CFR 64.904	Eliminate the requirement to perform costly annual external audits of Part 64 cost allocation.	Small carriers on rate of return regulation are not required to hire external auditors to conduct annual audits. Tier 1 Carriers are required to pay for expensive annual external audits. These audits can cost up to \$1 million a year. Carriers are also required to pay the Bureau annually for a detailed review of the external auditor workpapers. Tier 1 carriers should no longer be required to pay for both an annual external audit and an annual detailed Bureau review of the external audit. The external audit should no longer be required. (Even the Telecommunications Act established a sunset period for newly ordered external audits. The annual Part 64 external audits began with 1988 data)
47 CFR 64.901(b)	Replace the complicated and detailed Part 64 Cost Allocation process with a simplified approach using Class B level accounts and fixed factors developed from the last ARMIS 43-03 report filed before the rules change becomes effective.	Today Tier 1 LECs must file a CAM and must maintain processes for hundreds of cost pools. Each Class A account must be listed separately with its related cost pools. These cost pools can contain directly assigned costs resulting from various forms of time reporting, or the cost pools can be allocated using extensive studies or complicated allocation formulas. A more simplified, less costly, and less time consuming method for separating costs should be adopted.

47 CFR 64.901 to 64.904	Eliminate the requirement to allocate costs between regulated and nonregulated activities.	<p>Allocation processes, audits and reporting are costly. The requirement to separate costs between regulated and nonregulated activities is not a requirement placed on incumbent IXC's or CLECs. Carriers facing competition and price cap carriers should no longer be required to separate regulated costs from nonregulated costs.</p> <p>Part 64 is used to allocate current actual costs in the LEC books of account. Because Price Caps severs the link between price and cost, the amount of allocated cost is of no consequence. Hence, Part 64 offers no additional protection. As the Commission has already indicated, Part 64 costs are not used to price competitive services, and it is the antitrust laws that protect against predatory pricing (See Docket 86-111, par 40).</p> <p>Part 64 is not necessary to insure there is no cross subsidization between competitive and noncompetitive services for the purposes of Universal Service (Telecom Act 254K.) This requirement is achieved through passing Lifeline support directly to customers. (See Docket 96-45 , FCC 97-157 par. 336) Telecom Act Sections 272, 273 and 274 address separate the affiliate books of account, not the LEC books of account. Telecom Act Sections 260, 271, 275 and 276 are met with price caps.</p>
-------------------------------	--	---

TITLE 47--TELECOMMUNICATION

CHAPTER I--FEDERAL COMMUNICATIONS COMMISSION- (CONTINUED)

PART 64--MISCELLANEOUS RULES RELATING TO COMMON CARRIERS--Table of Contents

Subpart I--Allocation of Costs

64.901 Allocation of costs.

(a) Carriers required to separate their regulated costs from nonregulated costs shall use the attributable cost method of cost allocation for such purpose.

(b) In assigning or allocating costs to regulated and nonregulated activities, carriers shall follow the principles described herein.

(1) Tariffed services provided to a nonregulated activity will be charged to the nonregulated activity at the tariffed rates and credited to the regulated revenue account for that service.

(2) Carriers may have, but are not required to have, more than one cost category for each Class B Account. Fixed factors used to allocate common costs must be appropriately tied to the 19xx ARMIS 43-03 Report or to its supporting data.

64.902 Transactions with affiliates.

Except for carriers, which employ average schedules in lieu of determining their costs, all carriers subject to Sec. 64.901 are also subject to the provisions of Sec. 32.27 of this chapter concerning transactions with affiliates.

64.903 Cost allocation manuals.

(a) Each local exchange carrier with annual operating revenues that equal or exceed the indexed revenue threshold, as defined in Sec. 32.9000 of this chapter, shall file with the Commission within 90 days after publication of that threshold in the Federal Register, a manual containing the following information regarding its allocation of costs between regulated and unregulated activities:

(1) A description of each of the carrier's nonregulated activities;

(2) A list of all the activities to which the carrier now accords incidental accounting treatment and the justification therefor;

(3) A chart showing all of the carrier's corporate affiliates;

(4) A statement identifying each affiliate that engages in or will engage in transactions with the carrier and describing the nature, terms and frequency of each transaction;

(5) A cost apportionment table showing, for each account containing costs incurred in providing regulated services, the cost pools; and the associated fixed factors; and

(6) A description of the time reporting procedures that the carrier uses, for companies electing to directly assign certain costs.

(b) Each carrier shall ensure that the information contained in its cost allocation manual is accurate. Carriers must update their cost allocation manuals at least annually. Annual cost allocation manual updates shall be filed on or before the last working day of each calendar year. The Chief, Common Carrier Bureau may suspend any such charges for a period not to exceed 180 days, and may thereafter

allow the change to become effective or prescribe a different procedure.

(c) The Commission may by order require any other communications common carrier to file and maintain a cost allocation manual as provided in this section.

PART 65

**USTA
BIENNIAL REVIEW PETITION
SEPTEMBER 30, 1998**

Rule	Action	Justification
65.1(b)	<u>Application of part 65.</u> Revise Section 65.1(b) to make applicable to price cap LECs only when an LFAM adjustment is necessary. Otherwise, this section is not applicable to price cap LECs. Revise language to reference new Part XX rules. Delete reference to Part 69.	Part 65 reporting requirements should no longer be applicable to price cap LECs, especially in a competitive environment, except in cases where an LFAM adjustment may be necessary. Price cap LECs are no longer subject to Part 69, but instead Part XX.
65.600(a)	<u>Rate of return reports.</u> Revise Section 65.600(a) to make applicable to price cap LECs only when an LFAM adjustment is necessary. Otherwise, this section is not applicable to price cap LECs.	Part 65 reporting requirements should no longer be applicable to price cap LECs, especially in a competitive environment, except in cases where an LFAM adjustment may be necessary.
65.600(b) & (c)	<u>Rate of return reports.</u> Sections deleted.	Reporting requirements for ROR LECs eliminated as recommended by USTA ROR Access Reform Team. Reporting requirements for IXC's subject to price cap regulation are obsolete and are eliminated.
65.600(d)	<u>Rate of return reports.</u> Renumber section and revise language to reference new Part XX rules.	Price cap LECs are now subject to new Part XX rules.
65.700	<u>Determining the maximum allowable rate of return.</u> Delete section (a) requirement to determine maximum allowable rate of return on each access service category. Revise section (b) to renumber and to determine maximum allowable rate of return on an overall interstate basis.	Revisions recommended by USTA ROR Access Reform Team.

Rule	Action	Justification
65.702	<p><u>Measurement of interstate service earnings.</u></p> <p>Revise measurement of earnings to be on an overall interstate basis, instead of separately for each access service category. Eliminate description of access service categories.</p>	Revisions recommended by USTA ROR Access Reform Team.

USTA BIENNIAL REVIEW PROPOSAL

CODE OF FEDERAL REGULATIONS

TITLE 47--TELECOMMUNICATIONS

CHAPTER I

FEDERAL COMMUNICATIONS COMMISSION

PART 65--INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND

METHODOLOGIES

**PART 65--INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND
METHODOLOGIES**

Subpart A--General

Sec.

65.1 Application of part 65.

Subpart B--Procedures

- 65.100 Participation and acceptance of service designation.
- 65.101 Initiation of unitary rate of return prescription proceedings.
- 65.102 Petitions for exclusion from unitary treatment and for individual treatment in determining authorized return for interstate exchange access service.
- 65.103 Procedures for filing rate of return submissions.
- 65.104 Page limitations for rate of return submissions.
- 65.105 Discovery.

Subpart C--Exchange Carriers

- 65.300 Calculations of the components and weights of the cost of capital.
- 65.301 Cost of equity.
- 65.302 Cost of debt.
- 65.303 Cost of preferred stock.
- 65.304 Capital structure.
- 65.305 Calculation of the weighted average cost of capital.
- 65.306 Calculation accuracy.
- 65.450 Net income.

Subpart D--Interexchange Carriers

- 65.500 Net income.

Subpart E--Rate of Return Reports

- 65.600 Rate of return reports.

Subpart F--Maximum Allowable Rates of Return

- 65.700 Determining the maximum allowable rate of return.
- 65.701 Period of review.
- 65.702 Measurement of interstate service earnings.

Subpart G--Rate Base

- 65.800 Rate base.

65.810 Definitions.
65.820 Included items.
65.830 Deducted items.

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat.,
1066, 1072, 1077, 1094, as amended, 47 U.S.C. 151, 154, 201, 202,
203, 204, 205, 218, 219, 220, 403.

Subpart A--General

§ 65.1 Application of part 65.

(a) This part establishes procedures and methodologies for Commission prescription of an authorized unitary interstate exchange access rate of return and individual rates of return for the interstate exchange access rates of certain carriers pursuant to § 65.102. This part shall apply to those interstate services of local exchange carriers as the Commission shall designate by rule or order, except that all local exchange carriers shall provide to the Commission that information which the Commission requests for purposes of conducting prescription proceedings pursuant to this part.

(b) Local exchange carriers subject to price cap regulation, as specified in § XX of this chapter are exempt from the requirements of this part with the following exceptions:

(1) Except as otherwise required by Commission order, carriers subject to § XX of this chapter shall employ the rate of return value calculated for interstate access services in complying with any applicable rules under part 36 that require a return component;

(2) Carriers subject to § XX of this chapter shall be subject to § 65.600 only when a lower formula adjustment (LFAM) is necessary.

(3) Carriers subject to § XX of this chapter shall continue to comply with the prescribed rate of return when offering any services specified in § XX.101(b) of this chapter unless the Commission otherwise directs; and

(4) Carriers subject to § XX of this chapter shall comply with Commission information requests made pursuant to § 65.1(a).

[60 FR 28543, June 1, 1995]

Subpart B--Procedures

§ 65.100 Participation and acceptance of service designation.

(a) All interstate exchange access carriers, their customers, and any member of the public may participate in rate of return proceedings to determine the authorized unitary interstate exchange access or individual interstate exchange access rates of return authorized pursuant to § 65.102.

(b) Participants shall state in their initial pleading in a prescription proceeding whether they wish to receive service of documents and other material filed in the proceeding. Participants that wish to receive service by hand on the filing dates when so required by this part 65 shall specify in their initial pleading in a prescription proceeding, as specified in § 65.103 (b) and (c), an agent for acceptance of service by hand in the District of Columbia. The participant may elect in its pleading to receive service by mail or upon an agent at another location. When such an election is made, other participants need not complete service on the filing date, and requests for extension of time due to delays in completion of service will not be entertained.

[60 FR 28544, June 1, 1995]

§ 65.101 Initiation of unitary rate of return prescription proceedings.

(a) Whenever the Commission determines that the monthly average yields on ten (10) year United States Treasury securities remain, for a consecutive six (6) month period, at least 150 basis points above or below the average of the monthly average yields in effect for the consecutive six (6) month period immediately prior to the effective date of the current prescription, the Commission shall issue a notice inquiring whether a rate of return prescription according to this part should commence. This notice shall state:

- (1) The deadlines for filing initial and reply comments regarding the notice;
- (2) The cost of debt, cost of preferred stock, and capital structure computed in accordance with §§ 65.302, 65.303, and 65.304; and
- (3) Such other information as the Commission may deem proper.

(b) Based on the information submitted in response to the notice described in § 65.101(a), and on any other information specifically identified, the Commission may issue a notice initiating a prescription proceeding pursuant to this part.

(c) The Chief, Common Carrier Bureau, may issue the notice described in § 65.101(a).

[60 FR 28544, June 1, 1995]

§ 65.102 Petitions for exclusion from unitary treatment and for individual treatment in determining authorized return for interstate exchange access service.

(a) Exclusion from unitary treatment will be granted for a period of two years if the cost of capital for interstate exchange service is so low as to be confiscatory because it is outside the zone of reasonableness for the individual carrier's required rate of return for interstate exchange access services.

(b) A petition for exclusion from unitary treatment and for individual treatment must plead with particularity the exceptional facts and circumstances that justify individual treatment. The showing shall include a demonstration that the exceptional facts and circumstances are not of transitory effect, such that exclusion for a period of at least two years is justified.

(c) A petition for exclusion from unitary treatment and for individual treatment may be filed at any time. When a petition is filed at a time other than that specified in § 65.103(b)(2), the petitioner must provide compelling evidence that its need for individual treatment is not simply the result of short-term fluctuations in the cost of capital or similar events.

[60 FR 28544, June 1, 1995]

§ 65.103 Procedures for filing rate of return submissions.

(a) Rate of return submissions listed in § 65.103 (b)(1) and (c) may include any relevant information, subject to the page limitations of § 65.104. The Chief, Common Carrier Bureau, may require from carriers providing interstate services, and from other participants submitting rate of return submissions, data, studies or other information that are reasonably calculated to lead to a full and fair record.

(b) In proceedings to prescribe an authorized unitary rate of return on interstate access services, interested parties may file direct case submissions, responses, and rebuttals. Direct case submissions shall be filed within sixty (60) calendar days following the effective date of a Commission notice initiating a rate of return proceeding pursuant to § 65.101(b). Rate of return

submissions responsive to the direct case submissions shall be filed within sixty (60) calendar days after the deadline for filing direct case submissions. Rebuttal submissions shall be filed within twenty-one (21) calendar days after the deadline for filing responsive submissions.

(c) Petitions for exclusion from unitary treatment and for individual treatment may be filed on the same date as the deadline for filing responsive rate of return submissions. Oppositions shall be filed within 35 calendar days thereafter. Rebuttal submissions shall be filed within 21 calendar days after the deadline for filing responsive submissions.

(d) An original and 4 copies of all rate of return submissions shall be filed with the Secretary.

(e) The filing party shall serve a copy of each rate of return submission, other than an initial submission, on all participants who have filed a designation of service notice pursuant to § 65.100(b).

[60 FR 28544, June 1, 1995]

§ 65.104 Page limitations for rate of return submissions.

Rate of return submissions, including all argument, attachments, appendices, supplements, and supporting materials, such as testimony, data and documents, but excluding tables of contents and summaries of argument, shall be subject to the following double spaced typewritten page limits:

(a) The direct case submission of any participant shall not exceed 70 pages in length.

(b) The responsive submission of any participant shall not exceed 70 pages in length.

(c) The rebuttal submission of any participant shall not exceed 50 pages in length.

(d) Petitions for exclusion from unitary treatment shall not exceed 70 pages in length. Oppositions to petitions for exclusion shall not exceed 50 pages in length. Rebuttals shall not exceed 35 pages in length.

[60 FR 28544, June 1, 1995]

§ 65.105 Discovery.

(a) Participants shall file with each rate of return submission copies of all information, including studies, financial analysts' reports, and any other documents relied upon by participants or their experts in the preparation of their submission. Information filed pursuant to this paragraph for which protection from disclosure is sought shall be filed subject to protective orders which shall be duly granted by the Chief, Common Carrier Bureau, for good cause shown.

(b) Participants may file written interrogatories and requests for documents directed to any rate of return submission and not otherwise filed pursuant to § 65.105(a). The permissible scope of examination is that participants may be examined upon any matter, not privileged, that will demonstrably lead to the production of material, relevant, decisionally significant evidence.

(c) Discovery requests pursuant to § 65.105(b), including written interrogatories, shall be filed within 14 calendar days after the filing of the rate of return submission to which the request is directed. Discovery requests that are not opposed shall be complied with within 14 calendar days of the request date.

(d) Oppositions to discovery requests made pursuant to § 65.105(b), including written interrogatories, shall be filed within 7 calendar days after requests are filed. The Chief, Common Carrier Bureau, shall rule upon any such opposition. Except as stayed by the Commission or a Court, any required response to a discovery request that is opposed shall be provided within 14 calendar days after release of the ruling of the Chief, Common Carrier Bureau.

(e) An original and 4 copies of all information described in § 65.105(a) and all requests, oppositions, and responses made pursuant to § 65.105 (a), (b) and (d) shall be filed with the Secretary.

(f) Service of requests, oppositions, and responses made pursuant to § 65.105 (b) and (d) shall be made upon all participants who have filed a designation of service notice pursuant to § 65.100(b). Service of requests upon participants who have filed designation of service notices pursuant to § 65.100(b) shall be made by hand on the filing dates thereof.

[60 FR 28544, June 1, 1995]

Subpart C--Exchange Carriers

§ 65.300 Calculations of the components and weights of the cost of capital.

(a) Sections 65.301 through 65.303 specify the calculations that are to be performed in computing cost of debt, cost of preferred stock, and financial structure weights for prescription proceedings. The calculations shall determine, where applicable, a composite cost of debt, a composite cost of preferred stock, and a composite financial structure for all local exchange carriers with annual revenues in excess of \$100 million. The calculations shall be based on data reported to the Commission in FCC Report 43-02. (See 47 CFR 43.21). The results of the calculations shall be used in the represcription proceeding to which they relate unless the record in that proceeding shows that their use would be unreasonable.

(b) Excluded from cost of capital calculations made pursuant to § 65.300 shall be those sources of financing that are not investor supplied, or that are otherwise subtracted from a carrier's rate base pursuant to Commission orders governing the calculation of net rate base amounts in tariff filings that are made pursuant to section 203 of the Communications Act of 1934, 47 U.S.C. 203, or that were treated as "zero cost" sources of financing in section 450 and subpart C of this part 65. Specifically excluded are: accounts payable, accrued taxes, accrued interest, dividends payable, deferred credits and operating reserves, deferred taxes and deferred tax credits.

[60 FR 28545, June 1, 1995]

§ 65.301 Cost of equity.

The cost of equity shall be determined in represcription proceedings after giving full consideration to the evidence in the record, including such evidence as the Commission may officially notice.

[60 FR 28545, June 1, 1995]

§ 65.302 Cost of debt.

The formula for determining the cost of debt is equal to:

$$\text{Embedded Cost of Debt} = \frac{\text{Total Annual Interest Expense}}{\text{Average Outstanding Debt}}$$

Where:

" Total Annual Interest Expense" is the total interest expense for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

" Average Outstanding Debt" is the average of the total debt for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

[60 FR 28545, June 1, 1995]

§ 65.303 Cost of preferred stock.

The formula for determining the cost of preferred stock is:

$$\text{Cost of Preferred Stock} = \frac{\text{Total Annual Preferred Dividends}}{\text{Proceeds from the Issuance of Preferred Stock}}$$

Where:

" Total Annual Preferred Dividends" is the total dividends on preferred stock for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

" Proceeds from the Issuance of Preferred Stock" is the average of the total net proceeds from the issuance of preferred stock for the most recent two years for all local exchange carriers with annual revenues of \$100 million or more.

[60 FR 28545, June 1, 1995]

§ 65.304 Capital structure.

The proportion of each cost of capital component in the capital structure is equal to:

Proportion in the capital structure =

$$\frac{\text{Book Value of particular component}}{\text{Book Value of Debt} + \text{Book Value of Preferred Stock} + \text{Book Value of Equity}}$$

Where:

" Book Value of particular component" is the total of the book values of that component for all local exchange carriers with annual revenues of \$100 million or more.

" Book Value of Debt+Book Value of Preferred Stock+Book Value of Equity" is the total of the book values of all the components for all local exchange carriers with annual revenues of \$100 million or more.

The total of all proportions shall equal 1.00.

[60 FR 28545, June 1, 1995]

§ 65.305 Calculation of the weighted average cost of capital.

(a) The composite weighted average cost of capital is the sum of the cost of debt, the cost of preferred stock, and the cost of equity, each weighted by its proportion in the capital structure of the telephone companies.

(b) Unless the Commission determines to the contrary in a prescription proceeding, the composite weighted average cost of debt and cost of preferred stock is the composite weight computed in accordance with § 65.304 multiplied by the composite cost of the component computed in accordance with § 65.301 or § 65.302, as applicable. The composite weighted average cost of equity will be determined in each prescription proceeding.

[60 FR 28546, June 1, 1995]

§ 65.306 Calculation accuracy.

In a prescription proceeding, the final determinations of the cost of equity, cost of debt, cost of preferred stock and their capital structure weights shall be accurate to two decimal places.

[60 FR 28546, June 1, 1995]

§ 65.450 Net income.

(a) Net income shall consist of all revenues derived from the provision of interstate telecommunications services regulated by this Commission less expenses recognized by the Commission as necessary to the provision of these services. The calculation of expenses entering into the determination of net income shall include the interstate portion of plant specific operations (Accounts 6110-6441), plant nonspecific operations (Accounts 6510-6565), customer operations (Accounts 6610-6623), corporate operations (Accounts 6710-6790), other operating income and expense accounts (Accounts 7100-7160), and operating taxes (Accounts 7200-7250), except to the extent this Commission specifically provides to the contrary

(b) Gains and losses related to the disposition of plant in service items, shall be handled as follows:

(1) Gains related to property sold to others and leased back under capital leases for use in telecommunications services shall be recorded in Account 4360 (Other Deferred Credits) and credited

to Account 6563 (Amortization Expense--Tangible) over the amortization period established for the capital lease;

(2) Gains or losses related to the disposition of land and other nondepreciable items recorded in Account 7150 (Gains and Losses Resulting from the Sale of Land and Artworks) shall be included in net income for ratemaking purposes, but adjusted to reflect the relative amount of time such property was used in regulated operations and included in the rate base; and

(3) Proceeds related to the disposition of property depreciated on a group basis and used jointly in regulated and nonregulated activities, including sale-leaseback arrangements for property depreciated on a group basis, shall be credited to the related reserves and attributed to regulated and nonregulated in proportion to the accumulated regulated and nonregulated depreciation for that group.

(c) Gains or losses related to the disposition of property that was never included in the rate base shall not be considered for ratemaking purposes.

(d) Except for the allowance for funds used during construction, reasonable charitable deductions and interest related to customer deposits, the amounts recorded as nonoperating income and expenses and taxes (Accounts 7300-7450) and interest and related items (Accounts 7500-7540) and extraordinary items (Accounts 7600-7640) shall not be included unless this Commission specifically determines that particular items recorded in those accounts shall be included.

[53 FR 1029, Jan. 15, 1988, as amended at 60 FR 12139, Mar. 6, 1995]

Subpart D--Interexchange Carriers

§ 65.500 Net income.

The net income methodology specified in § 65.450 shall be utilized by all interexchange carriers that are so designated by Commission order.

[60 FR 28546, June 1, 1995]

Subpart E--Rate of Return Reports

§ 65.600 Rate of return reports.

(a) Subpart E shall apply to those interstate communications common carriers and local exchange carriers that are so designated by Commission order and shall only apply to incumbent local exchange carriers subject to price cap regulation, as specified in § XX of this chapter, in cases where a lower formula adjustment (LFAM) is necessary.

(b)(1) Each incumbent local exchange carrier or group of affiliated carriers subject to § XX of this chapter shall file with the Commission within three (3) months after the end of each calendar year a report of its total interstate rate of return for that year. Such filings shall include a report of the total revenues, total expenses and taxes, operating income, and the rate base. Reports shall be filed on the appropriate form prescribed by the Commission (see § 1.795 of this chapter) and shall provide full and specific answers to all questions propounded and information requested in the currently effective form. The number of copies to be filed shall be specified in the applicable report form. At least one copy of the report shall be retained in the principal office of the respondent and shall be filed in such manner as to be readily available for reference and inspection.

(2) Each incumbent local exchange carrier or group of affiliated carriers subject to § XX of this chapter shall file with the Commission within fifteen (15) months after the end of each calendar year a report reflecting any corrections or modifications to the report filed pursuant to paragraph (b)(1) of this section. Reports shall be filed on the appropriate form prescribed by the Commission (see § 1.795 of this chapter) and shall provide full and specific answers to all questions propounded and information requested in the currently effective form. The number of copies to be filed shall be specified in the applicable report form. At least one copy of the report shall be retained in the principal office of the respondent and shall be filed in such manner as to be readily available for reference and inspection.

[52 FR 274, Jan. 5, 1987, as amended at 54 FR 19844, May 8, 1989; 55 FR 42385, Oct. 19, 1990; 56 FR 21617, May 10, 1991; 62 FR 5166, Feb. 4, 1997]

Subpart F--Maximum Allowable Rates of Return

§ 65.700 Determining the maximum allowable rate of return.

(a) The maximum allowable rate of return for any exchange carrier's overall interstate earnings for all access service elements in the aggregate shall be determined by adding a fixed increment of one-quarter of one percent to the local exchange carrier prescribed rate of return.

(b) The maximum allowable rate of return for rates filed by local exchange carriers subject to § 61.72 of this chapter, shall be determined by adding a fixed increment of one and one-half percent to the local exchange carrier prescribed rate of return.

[51 FR 11034, Apr. 1, 1986, as amended at 58 FR 36149, July 6, 1993; 60 FR 28546, June 1, 1995]

§ 65.701 Period of review.

For both exchange and interexchange carriers subject to this part, interstate earnings shall be measured over a two year period to determine compliance with the maximum allowable rate of return. The review periods shall commence on January 1 in odd-numbered years and shall end on December 31 in even-numbered years.

[60 FR 28546, June 1, 1995]

§ 65.702 Measurement of interstate service earnings.

(a) For local exchange carriers, overall interstate earnings shall be measured for purposes of determining compliance with the maximum allowable rate of return. The Billing and Collection element shall not be included for purposes of this part.

(b) For local exchange carriers, earnings shall be measured for purposes of determining compliance with the maximum allowable rates of return separately for each study area; provided, however, that if the carrier has filed or concurred in access tariffs aggregating costs and rates for two or more study areas, the earnings will be determined for the aggregated study areas rather than for each study area separately. If an exchange carrier has not utilized the same level of study area aggregation during the entire two-year earnings review period, then the carrier's earnings will be measured for the entire two-year period on the basis of the tariffs in effect at the end of the second year of the two-year review period; provided, however,

that if tariffs representing a higher level of study area aggregation were not in effect for at least eight months in the second year, then the carrier's earnings will be measured on the basis of the study area level of aggregation in effect for the majority of the two-year period; provided further, that any carrier that was not a member of the National Exchange Carrier Association or other voluntary pools for both years of the two-year review period will have its earnings reviewed individually for the full two-year period.

[51 FR 11034, Apr. 1, 1986, as amended at 57 FR 54719, Nov. 20, 1992; 58 FR 48763, Sept. 17, 1993; 60 FR 28546, June 1, 1995]

Subpart G--Rate Base

Source: 53 FR 1029, Jan. 15, 1988, unless otherwise noted.

§ 65.800 Rate base.

The rate base shall consist of the interstate portion of the accounts listed in § 65.820 that has been invested in plant used and useful in the efficient provision of interstate telecommunications services regulated by this Commission, minus any deducted items computed in accordance with § 65.830.

§ 65.810 Definitions.

As used in this subpart "account xxxx" means the account of that number kept in accordance with the Uniform System of Accounts for Class A and Class B Telecommunications Companies in 47 CFR part 32.

§ 65.820 Included items.

(a) Telecommunications Plant. The interstate portion of all assets summarized in Account 2001 (Telecommunications Plant in Service) and Account 2002 (Property Held for Future Use), net of accumulated depreciation and amortization, and Account 2003 (Telecommunications Plant Under Construction), and, to the extent such inclusions are allowed by this Commission, Account 2005 (Telecommunications Plant Adjustment), net of accumulated amortization. Any interest cost for funds used during construction capitalized on assets recorded in these accounts shall be computed in accordance with the procedures in § 32.2000(c)(2)(x) of this chapter.

(b) Material and Supplies. The interstate portion of assets summarized in Account 1220.1 (Material and Supplies).

(c) Noncurrent Assets. The interstate portion of Class B Rural Telephone Bank stock contained in Account 1402 (Investment in Nonaffiliated Companies) and the interstate portion of assets summarized in Account 1410 (Other Noncurrent Assets), Account 1438 (Deferred Maintenance and Retirements), and Account 1439 (Deferred Charges) only to the extent that they have been specifically approved by this Commission for inclusion. Otherwise, the amounts in accounts 1401-1500 shall not be included.

(d) Cash Working Capital. The average amount of investor-supplied capital needed to provide funds for a carrier's day-to-day interstate operations. Class A carriers may calculate a cash working capital allowance either by performing a lead-lag study of interstate revenue and expense items or by using the formula set forth in paragraph (e) of this section. Class B carriers, in lieu of performing a lead-lag study or using the formula in paragraph (e) of this section, may calculate the cash working capital allowance using a standard allowance which will be established annually by the Chief, Common Carrier Bureau. When either the lead-lag study or formula method is used to calculate cash working capital, the amount calculated under the study or formula may be increased by minimum bank balances and working cash advances to determine the cash working capital allowance. Once a carrier has selected a method of determining its cash working capital allowance, it shall not change to an optional method from one year to the next without Commission approval.

(e) In lieu of a full lead-lag study, carriers may calculate the cash working capital allowance using the following formula.

(1) Compute the weighted average revenue lag days as follows:

(i) Multiply the average revenue lag days for interstate revenues billed in arrears by the percentage of interstate revenues billed in arrears.

(ii) Multiply the average revenue lag days for interstate revenues billed in advance by the percentage of interstate revenues billed in advance. (Note: a revenue lead should be shown as a negative lag.)

(iii) Add the results of paragraphs (e)(1) (i) and (ii) of this section to determine the weighted average revenue lag days.

(2) Compute the weighted average expense lag days as follows:

(i) Multiply the average lag days for interstate expenses (i.e., cash operating expenses plus interest paid in arrears by the percentage of interstate expenses paid in arrears.

(ii) Multiply the average lag days for interstate expenses paid in advance by the percentage of interstate expenses paid in advance. (Note: an expense lead should be shown as a negative lag.)

(iii) Add the results of paragraphs (e)(2) (i) and (ii) of this section to determine the weighted average expense lag days.

(3) Compute the weighted net lag days by deducting the weighted average expense lag days from the weighted average revenue lag days.

(4) Compute the percentage of a year represented by the weighted net lag days by dividing the days computed in paragraph (e)(3) of this section by 365 days.

(5) Compute the cash working capital allowance by multiplying the interstate cash operating expenses (i.e., operating expenses minus depreciation and amortization) plus interest by the percentage computed in paragraph (e)(4) of this section.

[54 FR 9048, Mar. 3, 1989, as amended at 60 FR 12139, Mar. 6, 1995]

§ 65.830 Deducted items.

(a) The following items shall be deducted from the interstate rate base.

(1) The interstate portion of deferred taxes (Accounts 4100 and 4340).

(2) The interstate portion of customer deposits (Account 4040).

(3) The interstate portion of other long-term liabilities (Account 4310) that were derived from the expenses specified in § 65.450(a).

(4) The interstate portion of other deferred credits (Account 4360) to the extent they arise from the provision of regulated telecommunications services. This shall include deferred gains related to sale-leaseback arrangements.

(b) The interstate portion of deferred taxes, customer deposits and other deferred credits shall be determined as prescribed by 47 CFR part 36.

(c) The interstate portion of other long-term liabilities (Account 4310) shall bear the same proportionate relationships as the interstate/intrastate expenses which gave rise to the liability.

[54 FR 9049, Mar. 3, 1989, as amended at 62 FR 15118, Mar. 31, 1997]

PART 69

**USTA
BIENNIAL REVIEW PETITION
SEPTEMBER 30, 1998**

Rule	Action	Justification
	PART 69 -ACCESS CHARGES FOR NON-PRICE CAP ILECS	Part 69 is modified to be applicable to non-price cap ILECs only. Appropriate portions of Part 69 are duplicated or removed and placed in new Part XX for price cap ILECs.
69.1 (a) & (b)	<u>Application of access charges.</u> Duplicate and include in Part XX. Revised to make applicable to ROR ILECs only.	Duplicate appropriate portions of Subpart A for price cap LECs in Part XX. Makes USTA ROR Access Reform Team recommendations.
69.1 (c)	<u>Application of access charges.</u> Section deleted.	All price cap rules incorporated into Part XX.
69.2	<u>Definitions.</u> Duplicate and include in Part XX.	Duplicate appropriate definitions for price cap LECs in Part XX.
69.2 (t), (u), (v), (w), (y), (bb)(1)(ii), (ll), (nn), (oo), (qq), (ss), (tt), (uu), (vv)	<u>Definitions.</u> Delete definitions. Revise (bb)(1) reference to MFJ.	Deletes obsolete definitions and changes MFJ to AT&T Consent Decree.
69.3	<u>Filing of access service tariffs.</u> Section deleted and incorporated in Part 61.15 and 61.50.	All tariff requirements are consolidated in Part 61 rules.
New 69.3	<u>Access elements.</u> Defines ROR ILEC access elements.	Makes USTA ROR Access Reform Team recommendations.